

CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
February 1, 2005
6:30 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

1. Conference with Real Property Negotiators

(Pursuant to Government Code section 54956.8)

Property: 195 N. Main Street, APN No. 022-08-043

Agency Negotiators: Charles Lawson, Steven Mattas and Felix Reliford

Negotiating Parties: Milpitas Redevelopment Agency and Zion Church

Under Negotiation: Terms and conditions for acquisition of property

2. Conference with Legal Counsel - Anticipated Litigation

(Pursuant to Government Code section 54956.9[c])

Initiation of Litigation: one case

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. APPROVAL OF MINUTES: January 18, 2005

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Proclamations:

Gene Schwab Memorial "Service Above Self" Awards

- Eliren Pasion
- Deborah Souza

Commendations:

- Matthew Au, Eagle Scout
- Finance Department "Distinguished Budget Presentation Award"

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. MOMENTS OF REFLECTION**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR (Items with Asterisks)**
- XIV. PUBLIC HEARINGS**
 - * 1. Introduce Ordinance No. 124.37 Amending Title XI Chapter 30 (Signs), Amending Title XI-10 (Planning, Zoning and Annexation) and Amending Chapter V-500 (Neighborhood Beautification) to Enhance the Code Enforcement Program (P-ZT2004-2); Continue to March 15, 2005 (Staff Contact: Tambri Heyden, 586-3280)**
 - 2. Approve the Installation of Five (5) New Undulators along Starlite Drive, Blue Spruce Drive, and Fallen Leaf Drive and Certify the Starlite Drive Neighborhood Undulators Survey Results (Staff Contact: Jaime Rodriguez, 586-3335)**
- XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**
 - RA1. Call to Order by the Mayor**
 - RA2. Roll Call**
 - RA3. Approval of Minutes: January 18, 2005**
 - RA4. Approval of Agenda and Consent Calendar**
 - RA5. Receive Progress Report on Library Design (Project No. 8162) (Staff Contact: Mark Rogge 586-3403)**
 - RA6. Consider Including Banquet and/or Commercial Space into the Midtown West Parking Garage (Staff Contacts: Mark Rogge, 586-3403 and James Lindsay, 586-3274)**
 - RA7. Approve Budget Appropriations and Additional Capital Improvement Project Revenues for FY 04-05 Mid-Year Budget Modifications (Staff Contact: Emma Karlen, 586-3145)**
 - RA8. City of Milpitas Financial Status Report for the Six Months Ended December 31, 2004 (Staff Contact: Emma Karlen, 586-3145)**
 - *RA9. City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2004 (Staff Contact: Emma Karlen, 586-3145)**
 - *RA10. Adopt Joint Resolution of the City Council and Redevelopment Agency Authorizing an Extension of the Exclusive Negotiation Agreement with Mid-Peninsula Housing Coalition until May 31, 2005, for the Sale and Development of APN 022-08-041 (163 North Main Street), (Staff Contact: Felix Reliford, 586-3071)**
 - RA11. Agency Adjournment**
- XVI. REPORTS OF OFFICERS AND BOARDS**
 - City Council**

3. **Discussion and Action Related to the Creation of a City Council Finance Subcommittee:**
Vice Mayor Gomez (Contact: Vice Mayor Gomez, 942-1110)
4. **Council Consideration and Action Related to Community Request to Honor Contributions of Milpitas Veterans Club:** Vice Mayor Gomez (Contact: Vice Mayor Gomez, 942-1110)

Senior Advisory Commission

- * 5. **Approve Revised Senior Advisory Commission Bylaws** (Staff Contact: Lynette Wilson, 586-2779)

XVII. UNFINISHED BUSINESS

6. **Consideration of Amendment to City Council Handbook Sections Related to Appointment Procedures for Boards and Commissions, City Council Committees and Outside Agency City Council Positions** (Staff Contact: Steve Mattas, 586-3040)
7. **Approve Gateway Sign Pilot Project Conceptual Design and Location** (Staff Contact: Liz Racca-Johnson, 586-3306)
- * 8. **Odor Control Comprehensive Action Plan Update** (Staff Contact: Darryl Wong, 586-3345)

XVIII. NEW BUSINESS

9. **Approve Request to Submit a Grant Application to the Metropolitan Transportation Commission 2005 Cycle of Traffic Engineering Technical Assistance Program to Study and Provide Operational Improvements to the State Route 237 & McCarthy Blvd Interchange** (Staff Contact: Jaime Rodriguez, 586-3335)
- * 10. **Approve use of Wal-Mart Safe Neighborhood Heroes Grant** (Staff Contact: Dennis Graham, 586-2502)
- * 11. **Accept BAPS Care International Donation To Senior Center, and Fire Department S.A.F.E Neighborhood Preparedness Programs** (Staff Contacts: Bonnie Greiner, 586-3227 and Bill Weisgerber, 586-2811)
- * 12. **Approve Miscellaneous Donation to Recreation Services that are \$1,000 or less to be Applied Towards the Recreation Assistance Program** (Staff Contacts: Bonnie Greiner 586-3227, Jennifer Tagalog 586-3210)
- * 13. **Approve Request to Submit a Grant Application to the Office of Traffic Safety for Funding to Implement an Automated Collision & Analysis System with GIS Capabilities** (Staff Contact: Jaime Rodriguez, 586-3335)

XIX. ORDINANCES

14. **Introduce Ordinance No. 262.1 (1) Repealing Chapter 310 of the Municipal Code; (2) Repealing Chapter 320 of the Municipal Code; and (3) Adding Chapter 310 to Title I of the Milpitas Municipal Code Establishing Regulations Governing Access to Public Meetings and Public Records, Designating City Employee Salary Information by Title as a Public Record, Regulating Lobbyists' Activities and Solicitation of Donations by Public Officials and Establishing an Open Government Commission ("Milpitas Open Government Ordinance")** (Staff Contact: Steve Mattas, 586-3040)

- * 15. **Adopt Ordinance No. 38.765 Amending Title XI, Chapter 10 (Planning, Zoning And Annexation) Of The Municipal Code and the Zoning Map (P-Zc2003-2) (Staff Contact: Troy Fujimoto, 586-3287)**

XX. RESOLUTIONS

- * 16. **Adopt Resolution Granting Initial Acceptance: Hall Park Walkway, Project No. 5058 (Staff Contact: Doug DeVries, 586-3219)**

XXI. BIDS AND CONTRACTS

- * 17. **Award Construction Contract, Authorize Execution of a Fund Transfer Agreement with Santa Clara Valley Transportation Authority, and Approve Appropriation for Coyote Creek Trail, Reach 1, Project No. 4206 (Staff Contact: Greg Armendariz, 586-3401)**
- * 18. **Authorize the City Manager to Execute the Agreement Amendment: Harris & Associates, Milpitas Library Off Site Utility Improvements, Project No. 8153, (Staff Contact: Steve Erickson, 586-3414)**
- * 19. **Approve Amendment No. 3 to Valley Oil Company Contract (Staff Contact: Chris Schroeder, 586-3161)**

XXII. CLAIMS AND DEMANDS

- * 20. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 15, 2005, AT 7:00 P.M.**

CITY OF MILPITAS
Agenda Reports
Milpitas City Council Meeting
February 1, 2005
6:30 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard

XIV. PUBLIC HEARINGS

- * 1. **Introduce Ordinance No. 124.37 Amending Title XI Chapter 30 (Signs), Amending Title XI-10 (Planning, Zoning and Annexation) and Amending Chapter V-500 (Neighborhood Beautification) to Enhance the Code Enforcement Program (P-ZT2004-2); Continue to March 15, 2005 (Staff Contact: Tambri Heyden, 586-3280)**

Background: The Sign Code Task Force at their January 7, 2005, meeting directed staff to move forward with advertising a February 1, 2005, Council public hearing for first reading of Ordinance No. 124.37 to amend the Sign Code, Zoning Code and Neighborhood Beautification Ordinance for purposes of enhancing the City's code enforcement program. This was based on their belief that given the few outstanding issues, the task force would be finished with their modifications to the proposed ordinance. This direction was in conjunction with providing a task force update at the January 18, 2005, Council meeting.

At the January 18, 2005, Council meeting, the Council provided further direction that consideration of this item would be premature if heard prior to March 15, 2005 – 90 days from the December 21, 2004, Council meeting when the item was first considered and sent back to the task force for greater consensus. However, the advertisement deadline for the hearing date requested by the task force occurred prior to the action at the January 18th Council meeting. Therefore, this item needs to be continued to the March 15, 2005, meeting.

Recommendation: Continue the hearing on proposed Ordinance No. 124.37 to the March 15, 2005, City Council meeting.

2. **Approve the Installation of Five (5) New Undulators along Starlite Drive, Blue Spruce Drive, and Fallen Leaf Drive and Certify the Starlite Drive Neighborhood Undulators Survey Results (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The City of Milpitas received a petition from the residents of the Starlite Drive neighborhood on June 25, 2004, signed by approximately 115 residents to study the need for and install undulators along their street to assist in providing compliance of the posted 25-MPH speed limit for their street.

A community meeting was held on September 15, 2004, in response to the neighborhood petition with approximately 18 residents in attendance. Traffic data collected prior to the meeting indicated an 85% (critical speed) of 29-MPH for Starlite Drive, six (6) crashes in a four (4) year period including one pedestrian fatality on November 23, 2002, and an average daily traffic volume of 1,300 vehicles per day.

At the meeting the City notified the residents that a survey would be required to establish the level of support of the neighborhood for the installation of the devices. City policy requires that more than 70% of the residents in the neighborhood support the installation of the devices, including those residents living adjacent to the proposed undulator locations, so that the devices may be recommended for installation. The residents were also informed that the City would require the installation of undulators along Blue Spruce Drive in addition to Starlite Drive if the survey results showed support for the undulators along Starlite Drive; the reason being to avoid spill-over traffic impacts to Blue Spruce Drive. The residents were in support of the City

recommendation and also requested that the City consider an additional undulator installation along Fallen Leaf Drive between Starlite Dr and Blue Spruce Drive.

The City mailed approximately 463 surveys to residents of the Pines Neighborhood on November 18, 2004, to determine the level of support for the undulators. 124 responses were received through the end of December. Eighty-two percent (82%) of the residents support the installation of two undulators along Starlite Drive and two undulators along Blue Spruce Drive. Seventy-six percent (76%) of the residents support the installation of one additional undulator along Fallen Leaf Drive. Residents adjacent to the recommended undulator locations also support their installation.

The survey results and a map showing the recommended undulator locations in the survey are attached.

Staff will provide a brief summary report at the Council meeting, which will include a recommendation to install undulators at Starlite Drive, Blue Spruce Drive and Fallen Leaf Drive.

Undulators are normally installed using a City contractor, Wattis Construction, at a cost of \$2,000 per undulator. City staff will perform the installation of appropriate signage & pavement markings. Annual maintenance costs per undulator are estimated at \$3,000 for the refreshing of pavement markings, maintenance of traffic signage and the clean up of debris not picked up by street sweepers.

Recommendation:

1. Close the Public Hearing.
2. Approve the installation of five (5) new undulators including two (2) undulators along Starlite Drive, two (2) undulators along Blue Spruce Drive, and one (1) additional undulators along Fallen Leaf Drive and certify the Starlite Drive neighborhood undulators survey results.

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes: January 18, 2005

RA4. Approval of Agenda and Consent Calendar

RA5. Receive Progress Report on Library Design (Project No. 8162) (Staff Contact: Mark Rogge 586-3403)

Background: The library project is commencing with the schematic design phase. The project is included in the Capitol Improvement Program. Staff will give a brief presentation on the progress of the design at the Joint Redevelopment Agency and City Council Meeting.

Recommendation: Note receipt and file the progress report on the library design.

RA6. Consider Including Banquet and/or Commercial Space into the Midtown West Parking Garage (Staff Contacts: Mark Rogge, 586-3403 and James Lindsay, 586-3274)

Background: The City will be constructing the Midtown West Parking Garage on the vacant lot located on the west side of North Main Street just south of the Calaveras Boulevard off-ramp for the primary purpose of providing necessary parking for the Santa Clara County Health Center. The opportunities to explore other uses within a new parking garage became apparent after seeing how other cities have incorporated successful commercial and community-serving uses into their parking structures. Segments of the community have expressed the need for additional meeting

and banquet space within the City. Incorporating those uses into a parking garage would be a cost efficient way of providing those services. After a brief presentation on the possibilities, the Economic Development Commission recommended that the City Council consider inclusion of these uses in the design of the parking garage.

Meeting space and a kitchen incorporated into the garage could also be used in an emergency to shelter and feed victims after an earthquake or other disaster. The Fire Department provided information on grant funds up to \$3 million that may be applicable if the garage is designed to provide emergency shelter. Staff will give a brief presentation at the City Council meeting illustrating several opportunities and examples of other parking structures that have similar mixed uses in downtown areas.

Recommendation: Direct staff to prepare information for the City Council or a Council Subcommittee on including banquet and/or commercial space into the Midtown West Parking Garage.

RA7. Approve Budget Appropriations and Additional Capital Improvement Project Revenues for FY 04-05 Mid-Year Budget Modifications (Staff Contact: Emma Karlen, 586-3145)

Background: To maintain conformity with the City's current budgeting policies that any additional appropriation to a department budget or re-appropriation of monies from one fund to another must be approved by the City Council, staff has included the attached budget change forms and justification memos from the departments for your review and consideration. These modifications are requested due to changing conditions or needs; the amounts originally appropriated in the department or project budget were inadequate.

The overall fiscal impact of these budget modifications will be \$2,067,144 net reduction to the fund balances of various funds. The amount affecting the General Fund will be \$208,235. There are sufficient balances in these funds to cover the additional appropriations. A summary of the various budget transfers and appropriations is also included. Necessary budget adjustments include the following categories:

Additional budget appropriations for operating expenses:

- 1) \$7,235 from the General Fund to fund the maintenance costs for college classes at Milpitas High School, newsletter production cost and the Joint Venture Silicon Valley Economic Development Alliance activity costs.
- 2) \$71,000 from the General Fund to Human Resources Department to pay for recruitment expenses for several key positions.
- 3) \$80,000 from the General Fund to Recreation Division to pay for additional contracted instructors. The cost for these services will be recovered through enrollment fees.
- 4) \$50,000 from General Fund to Building Division to cover temporary staffing expense due to request from the Parc Place developer for a dedicated inspector. The cost for the dedicated inspector will be reimbursed by the developer.
- 5) \$35,000 from the Abandoned Vehicle Abatement Service Authority (AVASA) Fund to the Police Department to provide for continued service on the removal of abandoned vehicles on the roadways and to pay for a laptop computer.
- 6) \$1,042,762 from the Redevelopment Agency Project Fund to non-departmental budget to pay for additional obligation to the Education Revenue Augmentation Fund as mandated by the State. The required contribution amount for FY04-05 is \$1,042,762 more than originally anticipated.
- 7) \$15,000 from the Water And Sewer Funds to Engineering Division to provide for consultant costs for additional hydraulic water and sewer modeling. The Water and Sewer funds will pay \$7,500 respectively for the cost.
- 8) \$300,000 from Redevelopment Agency Fund to provide for additional public works construction litigation fees and costs.

Additional budget appropriations for capital improvement projects:

- 9) \$200,000 from the RDA Tax Allocation Bond Proceeds to Capital Project no. 8153 North Main Street Utility Improvements to fund additional project costs. (Please refer to the memo from the Acting Assistant City Engineer)
- 10) \$200,000 from the RDA Tax Allocation Bond Proceeds to fund a new Capital Project no. 8159 North Main Street EIR Mitigation for the development of a mitigation plan and preliminary work related to the library and East parking garage.
- 11) \$200,000 from the RDA Tax Allocation Bond Proceeds to Capital Project no. 8165 Main Street Midtown Improvements to fund additional project costs.
- 12) \$40,000 from the Water Fund to Capital Project no. 7098 South Milpitas Water Replacement to fund additional project costs.
- 13) \$54,895 from the Street Fund to Capital Project no. 4214 Piedmont Road to replace the state funding shortfall for this project.
- 14) \$276,192 to Capital Project no. 4223 Annual Street Resurfacing 2005 to pay for street resurfacing. The funding source for this appropriation is from the Valley Transportation Agency.

Additional Capital Improvement Project Revenue:

- 15) Capital Project no. 6078 San Jose Parallel Force Main received higher reimbursement from South Bay Water Recycling Program, approximately \$228,748 more than original estimate, thus releasing a portion of the City's funding back to the Sewer Fund and Treatment Plant Fund in the amount of \$142,250 and \$86,498 respectively.
- 16) As indicated above, the City received funding from the VTA in the amount of \$276,192, which is proposed to be appropriated to the Annual Street Resurfacing 2005 capital project no. 4223.

Recommendation: Approve the Fiscal Year 2004-05 mid-year budget appropriations and additional capital Improvement project revenues as itemized in the budget change form included in the Agency/Council agenda packet.

RA8. City of Milpitas Financial Status Report for the Six Months Ended December 31, 2004 (Staff Contact: Emma Karlen, 586-3145)

Background: The Finance Department will present a review of the City's financial status for the six months ended December 31, 2004.

Recommendation: Receive staff report.

***RA9. City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2004 (Staff Contact: Emma Karlen, 586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended December 31, 2004, is submitted for your review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of December 31, 2004.

As of December 31, 2004, the principal cost and market value of the City's investment portfolio was \$260,730,365.86 and \$260,183,002.49 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment

increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended December 31, 2004, was 3.20%. The comparative benchmarks for the same period were 1.88% for LAIF (Local Agency Investment Fund) and 3.07% for the average 2 year Treasury Note. Excluding the long-term GNMA securities and Repurchase Investment Agreement, the weighted average maturity of the portfolio was 573 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

Recommendation: Note, receipt, and file the investment report for the quarter ended December 31, 2004.

***RA10. Adopt Joint Resolution of the City Council and Redevelopment Agency Authorizing an Extension of the Exclusive Negotiation Agreement with Mid-Peninsula Housing Coalition until May 31, 2005, for the Sale and Development of APN 022-08-041 (163 North Main Street), (Staff Contact: Felix Reliford, 586-3071)**

Background: On May 18, 2004, the City Council and Redevelopment Agency jointly approved an Exclusive Negotiation Agreement with Mid-Peninsula Housing Coalition to develop a senior affordable housing project at 163 North Main Street. This Exclusive Negotiation Agreement expired on November 16, 2004. An extension to the original agreement expires on February 28, 2005.

Mid-Peninsula has continued to work diligently and cooperatively to develop an acceptable site plan that will accommodate the development of 104 affordable senior housing units and preserve and rehabilitate the DeVries/Smith House. Mid-Peninsula has paid the required deposits and met all the terms of the Exclusive Negotiation Agreement. With the approval of the North Main Street Environmental Impact Report the project is on schedule, however due to the City's desire to accommodate both the senior housing project and the County Health Center in a relatively compact area, Mid-Peninsula Housing Coalition and the County of Santa Clara are still negotiating several issues including the location of the joint driveway, maintenance and shared costs of the driveway, joint use agreements/easements, and the location of the lot line for the split of the existing property.

It is anticipated that the period of exclusive negotiation will culminate with the recommendation of the adoption of a Disposition and Development Agreement

Recommendation: Adopt a Joint Resolution of the Council of the City of Milpitas and the Milpitas Redevelopment Agency Authorizing an extension of the Exclusive Negotiation Agreement with Mid-Peninsula Housing until May 31, 2005, for the sale and development of APN 022-08-041 (163 North Main Street).

RA11. Agency Adjournment

XVI. REPORTS OF OFFICERS AND BOARDS

City Council

3. Discussion and Action Related to the Creation of a City Council Finance Subcommittee: Vice Mayor Gomez (Contact: Vice Mayor Gomez, 942-1110)

Background: This item was continued from the January 18, 2005, City Council meeting. Vice Mayor Gomez placed this item on the agenda and is requesting the Council discuss and take appropriate action regarding the creation of a Council Subcommittee on Finance.

Recommendation: Discuss and take action regarding the creation of a City Council Subcommittee on Finance.

4. Council Consideration and Action Related to Community Request to Honor Contributions of Milpitas Veterans Club: Vice Mayor Gomez (Contact: Vice Mayor Gomez, 942-1110)

Background: Vice Mayor Gomez placed this item on the agenda for consideration of an appropriate way to honor the contributions of the Milpitas Veterans Club. Vice Mayor Gomez is recommending the City Council request the individuals who served on the Veterans Memorial Committee (who provided recommendations for the Veterans Memorial at the Civic Center) reconvene and this item be forwarded to that Committee to provide a recommendation to the City Council.

Recommendation: Request the Veterans Memorial Committee provide a recommendation to the City Council on an appropriate recognition of the Milpitas Veterans Club.

Senior Advisory Commission

*** 5. Approve Revised Senior Advisory Commission Bylaws (Staff Contact: Lynette Wilson, 586-2779)**

Background: At the December 28, 2004, Senior Advisory Commission meeting, the Commission discussed changing their Bylaws, which would eliminate the two (2) Member At Large positions and require that all nine (9) seats be appointed by the Mayor and approved by the City Council. Over the past two years, it has become increasingly difficult for the "Member-At-Large" positions to be filled. There is a lack of interest from the Senior Center participants in addition to the time it takes to hold elections. The election can take several months to complete due to the time required to announce the need for candidates and the election dates in the bi-monthly Senior Center newsletter and to hold the election. Due to the length of time to fill the Member-At-Large seats, the Senior Advisory Commission is subject to vacancies for a good period of time.

The Commission unanimously voted to eliminate the two (2) Member-At-Large positions and to have all nine (9) seats be appointed by the Mayor and approved by the City Council. Attached are the unapproved minutes from the Senior Advisory Commission's December 28, 2004, meeting for reference, in addition to a copy of the Senior Advisory Commission Bylaws identifying the requested changes.

Recommendation: Approve the revised Senior Advisory Commission Bylaws to reflect the elimination of the two (2) Member-At-Large positions and require that all nine (9) seats be appointed by the Mayor and approved by the City Council.

XVII. UNFINISHED BUSINESS

6. Consideration of Amendment to City Council Handbook Sections Related to Appointment Procedures for Boards and Commissions, City Council Committees and Outside Agency City Council Positions (Staff Contact: Steve Mattas, 586-3040)

Background: This item was considered at the January 18, 2005, City Council meeting and no action was taken. At the City Council meeting of December 7, 2004, the City Council created an Appointments Subcommittee to make recommendations to the Mayor and City Council regarding the appointment of Councilmembers to City Council Committees, City Council Liaison positions, to outside agencies and regarding appointments to City Commissions. The City Council also

appointed Councilmember Livengood and Vice Mayor Gomez to the newly-formed subcommittee. At the City Council meeting of January 4, 2005, the City Council provided the City Attorney with direction to amend the City Council Handbook section related to Council Committees, liaison, and outside agency appointments and board and commission appointments to reflect the advisory role of the newly-created subcommittee in the appointment process.

The attached amendment to the City Council Handbook would add language to the sections related to boards, regional boards, ad hoc and standing subcommittees and commissions to explain the advisory role of the Council Subcommittee in the appointment process. Under the proposed amendment, the Subcommittee would make appointment recommendations to the Mayor, to be presented to the Mayor and City Council at a City Council meeting, at which time, with the Mayor's concurrence, the recommendations would be presented to the City Council by the Mayor for consideration and action.

Recommendation: Consider the proposed amendment and provide direction.

7. Approve Gateway Sign Pilot Project Conceptual Design and Location (Staff Contact: Greg Armendariz, 586-3401)

Background: At the September 7, 2004, City Council meeting, staff identified five minor gateways to the City subject to an entry marker sign. These gateways are collector streets that cross over the city limits of Milpitas from adjacent communities. The locations include: 1) Piedmont Road at Landess Avenue, 2) North Milpitas Boulevard at the city's northern limits, 3) South Park Victoria Blvd. at Landess Avenue, 4) Capitol Avenue at the city's southern limits and 5) South Main Street at Montague Expressway. Piedmont Road was selected as the first location for implementing the sign pilot program.

Two sign concepts have been developed. Staff will provide a brief presentation at the Council meeting, and recommend a concept for the Piedmont location. Both concepts are made from concrete and have the same theme colors as the City Hall Building.

The estimated price to construct the sign at Piedmont Road is approximately \$20,000.00.

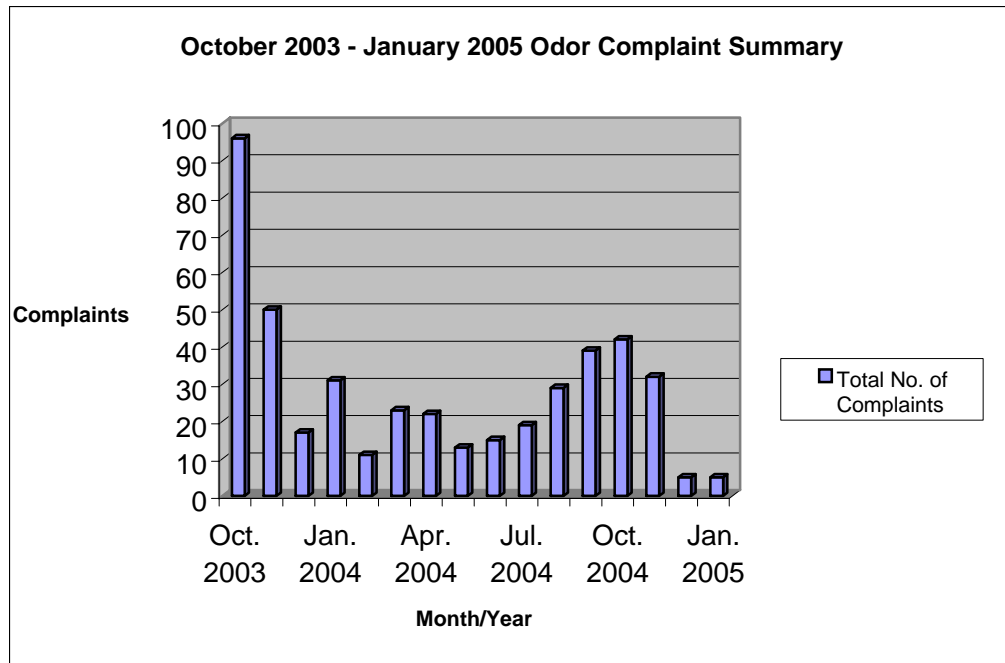
Staff recommends approval of a new CIP project number, CIP No. 4227, and there are sufficient funds in the Street Fund for this project.

Recommendation:

1. Approve the selected concept design for the Piedmont at Landess location.
2. Approve new CIP Project No. 4227 for the Gateway Sign Pilot Program and appropriation of \$20,000.00 into this project from the Street Fund.

*** 8. Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**

Background: Cool weather patterns have resulted in continued low odor complaint levels with the number of complaints remaining substantially less than the same time last year, and it is proposed that routine updates be reduced from monthly to quarterly, or until complaint levels begin to increase. The Bay Area Air Quality Management District has reported the following number of complaints logged as of January 25:



Recommendation: Direct staff to reduce frequency of routine updates. Note receipt and file progress report.

XVIII. NEW BUSINESS

- 9. Approve Request to Submit a Grant Application to the Metropolitan Transportation Commission 2005 Cycle of Traffic Engineering Technical Assistance Program to Study and Provide Operational Improvements to the State Route 237 & McCarthy Blvd Interchange (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The Metropolitan Transportation Commission (MTC) has issued a “call for projects” for the Traffic Engineering Technical Assistance Program (RSTP), 2005 Cycle. The purpose of the TETAP program is to provide technical assistance to local agencies for the preparation of reports that recommend future projects; the program does not provide funding for the construction of projects, roadway improvements or equipment costs. MTC retains consultants to provide traffic engineering and data collection services under the program and there is no local City match required. Local agencies need only to provide funding to cover staff costs related to the project.

The Traffic Engineering Section is partnering with Caltrans – District 4 Office, to recommend a project to the MTC – 2005 TETAP cycle to study and provide operational improvements to the State Route 237 & McCarthy Blvd interchange. Study criteria includes modeling the current conditions and estimated future conditions and identifying improvements that can be easily implemented such as roadway markings & signage improvements as well as larger more long-term improvements such as traffic signal modifications or roadway reconfigurations if appropriate. The estimated cost of the study is \$20,000 and would be covered 100% by MTC if funded.

Recommendation: Approve request to submit a grant application to the Metropolitan Transportation Commission 2005 Cycle of Traffic Engineering Technical Assistance Program to study and provide operational improvements to the State Route 237 & McCarthy Blvd Interchange.

- * 10. Approve Use of Wal-Mart Safe Neighborhood Heroes Grant (Staff Contact: Dennis Graham, 586-2502)**

Background: The Wal-Mart Foundation, through Milpitas Wal-Mart Store #2119, has donated a check in the amount of \$2,250 to the Milpitas Police Department under the auspices of its “Safe Neighborhood Heroes” grant program. There are no specific requirements concerning how these funds are to be expended, except that they are to support city safety through community involvement.

The Police Department is in receipt of this check, and Command staff recommends that the funds be donated to the Milpitas Police Activities League (P.A.L.) general account to support community-involved crime prevention through youth involvement in P.A.L. programs.

Recommendation: Authorize the Police Department to accept these funds in the amount of \$2,250, and to donate the funds to the Milpitas Police Activities League general account.

- * 11. **Accept BAPS Care International Donation to Senior Center and Fire Department S.A.F.E Neighborhood Preparedness Programs (Staff Contacts: Bonnie Greiner, 586-3227 and Bill Weisgerber, 586-2811)**

Background: The local chapter of BAPS Care International held a Walk-A-Thon on October 9, 2004, to raise funds, in part, for their commitment to local community service. As part of the community giving mission of BAPS Care International, two donations of funds raised by the Walk-A-Thon have been made in the amount of: \$500 to the City of Milpitas Recreation Services Senior Center, and the City of Milpitas Fire Department S.A.F.E. Neighborhood Preparedness Program. The respective departments are in receipt of these checks, with the funds to be utilized for:

- Recreation Assistant Program (R.A.P) for Milpitas Seniors, to provide them the opportunity to participate in any Recreation Services class or program; and,
- Public Fire and Disaster Preparedness Education instructional materials, benefiting the community at large.

Recommendation:

1. Authorize the Recreation Division and Fire Department acceptance of the BAPS Care International donations, in the amount of \$500 each, to be utilized for the Recreation Assistant Program (R.A.P), and S.A.F.E. Neighborhood Preparedness program
2. Appropriate \$500 to the Recreation Services Operating Budget, and \$500 to the Fire Department Operating Budget.

- * 12. **Approve Miscellaneous Donation to Recreation Services that are \$1,000 or less to be Applied Towards the Recreation Assistance Program (Staff Contacts: Bonnie Greiner 586-3227, Jennifer Tagalog 586-3210)**

Background: The Recreation Services Division has been receiving donations for the Recreation Assistance Program (RAP). RAP provides Milpitas individuals and families financial assistance to participate in all Recreation Services programs as needed, by providing up to \$250 per year to each qualifying Milpitas household. This funding allows individuals and family members to participate in the many fun and exciting recreation programs the City of Milpitas offers.

The RAP funding cycle is July 1 – June 30, and is on a first come, first serve basis to families and individuals whom meet the Housing Urban Development (HUD) requirements. To date 113 families have been approved to receive funding. For the 2004/2005, fiscal year a Community Development Block Grant (CDBG) was given to fund the RAP program in the amount of \$11,297. To date there is a balance of \$105.00 remaining.

Throughout the year, staff has also solicited donations and additional funds to help support this program. To date, Recreation received \$4,204.06 in donations. To further benefit qualifying Milpitas household, staff is requesting the City Council to allow these miscellaneous donations and future donations to Recreation that are \$1,000 or less to be applied towards the RAP

Program. Staff has worked with Finance Department to create an accounting system to ensure the monies are properly tracked.

Recommendation: Approve miscellaneous donations to Recreation Services that are \$1,000 or less to be applied towards the Recreation Assistance Program.

- * 13. **Approve Request to Submit a Grant Application to the Office of Traffic Safety for Funding to Implement an Automated Collision & Analysis System with GIS Capabilities (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The Office of Traffic Safety (OTS) distributes federal funding apportioned to California under the National Highway Safety Act and the Transportation Equity Act for the 21st Century (TEA-21). OTS funds grant proposals that mitigate traffic safety program deficiencies or that target the development or expansion of new traffic safety programs.

OTS has issued a “call for projects” 2005-06 Cycle. The Engineering Division – Traffic Engineering section is recommending to submit a grant proposal worth \$30,000 to implement an Automated Collision & Analysis System with GIS capabilities to assist the Traffic Engineering section is proactively identifying high incident collision locations and recurring collision patterns so that appropriate and innovative solutions can be implemented.

Should funding be received, the Traffic Engineering section will begin a consultant selection process in the Fall 2005, when OTS funding becomes available, to implement the system. Funding for a system is estimated at \$30,000, the amount of the grant proposal. After implementation, on-going operations and maintenance costs for the system are not anticipated to impact existing resources.

Recommendation: Approve request to submit a grant application to the California – Office of Traffic Safety for funding to implement an Automated Collision & Analysis system with GIS capabilities.

XIX. ORDINANCES

14. **Introduce Ordinance No. 262.1 (1) Repealing Chapter 310 of the Municipal Code; (2) Repealing Chapter 320 of the Municipal Code; and (3) Adding Chapter 310 to Title I of the Milpitas Municipal Code Establishing Regulations Governing Access to Public Meetings and Public Records, Designating City Employee Salary Information by Title as a Public Record, Regulating Lobbyists’ Activities and Solicitation of Donations by Public Officials and Establishing an Open Government Commission (“Milpitas Open Government Ordinance”) (Staff Contact: Steve Mattas, 586-3040)**

Background: The proposed ordinance presented by Councilmember Gomez establishes procedures governing access to public meetings and public records. The proposed ordinance repeals Chapters 310 and 320 of the Municipal Code, and incorporates Chapter 320, designating city employee salary information by title as a public record, into a new Chapter 310, which shall be known as “The Milpitas Open Government Ordinance.”

If adopted, the ordinance would establish a presumption of public accessibility to public meetings and records, and would provide the public greater access to such meetings and records than is currently required under state law. The ordinance would establish a set of requirements for the posting and content of meeting agendas and public notices. It sets forth regulations governing the format of disclosure of information regarding closed sessions, requires the audio and video recordings of all closed sessions, provides guidelines for public testimony and participation of the public and public officials in open meetings of City policy bodies.

In addition, the ordinance would govern the release of public records and information. It sets forth guidelines and regulations for the release of public records, justifications for withholding of

public information, and maintenance of an index of records. It also establishes an appeal process should there be difficulties in accessing non-exempt public records, establishes guidelines for the release of oral public information, and imposes registration and reporting requirements for lobbyists.

The ordinance establishes an Open Government Commission comprised of five members appointed by the City Council. The Commission would work to ensure practical and timely implementation of the ordinance, and would additionally serve as the adjudicatory body charged with conducting administrative hearings to resolve complaints from the public alleging violations of the Open Government ordinance.

Finally, staff requests further direction from the Council, per Councilmember Gomez's request at the Council's January 4, 2005, meeting, as to what extent senior staff meetings shall be made open to the public, whether periodically, or more or less frequently.

Recommendation:

1. Provide direction to staff regarding public access to senior staff meetings.
2. Motion to waive reading beyond the title for Ordinance No. 262.1.
3. Motion to introduce Ordinance No. 262.1 (1) repealing chapter 310 of the Municipal Code; (2) repealing chapter 320 of the Municipal Code; and (3) adding Chapter 310 to Title I of the Milpitas Municipal Code establishing regulations governing access to public meetings and public records, designating city employee salary information by title as a public record, regulating lobbyists' activities and solicitation of donations by public officials and establishing an Open Government Commission ("Milpitas Open Government Ordinance").

- * **15. Adopt Ordinance No. 38.765 Amending Title XI, Chapter 10 (Planning, Zoning And Annexation) Of The Municipal Code and the Zoning Map (P-Zc2003-2) (Staff Contact: Troy Fujimoto, 586-3287)**

Background: Proposed Ordinance No. 38.765 included in the Council's packet was introduced for first reading at the meeting January 18, 2005, Council meeting. This ordinance involves amendments to the zoning map (6 parcels rezoned to POS-Parks and Open Space, R3-Multi Family High Density, R4-Multi-Family Very-High Density, and C2-General Commercial). At the January 18, 2005, meeting, a public hearing was conducted for this ordinance at which time comments were received. The Council did not request any revisions to be made by Planning staff. In addition, the Council adopted a Resolution for the associated Environmental Impact Report (EA2003-7) and a Resolution for the General Plan and Specific Plan amendments (GP2003-1) associated with the land use changes.

Recommendation:

1. Waive full reading of the ordinance.
2. Adopt Ordinance No. 38.765 (ZC2003-2).

XX. RESOLUTIONS

- * **16. Adopt Resolution Granting Initial Acceptance: Hall Park Walkway, Project No. 5058 (Staff Contact: Doug DeVries, 586-3219)**

Background: The walkway renovation from the tennis courts at Hall Park across the two bridges to Abbott Avenue consisting fencing, lighting, landscaping, planting and irrigation has been completed. The work is now ready for initial acceptance. The contractor's faithful performance bond may be reduced to \$28,817.00, 10% of the contract amount.

Recommendation: Adopt resolution granting initial acceptance subject to a one-year warranty period and reduction of the faithful performance bond to \$28,817.00.

XXI. BIDS AND CONTRACTS

*** 17. Award Construction Contract, Authorize Execution of a Fund Transfer Agreement with Santa Clara Valley Transportation Authority, and Approve Appropriation for Coyote Creek Trail, Reach 1, Project No. 4206 (Staff Contact: Greg Armendariz, 586-3401)**

Background: Coyote Creek Trail, Reach 1 is included in the current five-year Capital Improvement Program (CIP). The completed project will provide a pedestrian and bicycle trail along Coyote Creek that extends from North McCarthy Boulevard at Coyote Creek to the Ranch Drive cul-de-sac. The trail will be constructed primarily on existing levees along the east side of the creek. On December 21, 2004, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. The Engineer's estimated construction cost for the base scope of work was \$575,000.

The project was advertised and sealed bid proposals were opened on January 21, 2005. The bid proposals ranged from \$448,000 to 728,260, and the lowest responsible bidder is determined to be GradeTech, Inc. With implementation of the actions recommended below, sufficient funds will be available in the project budget to award this project and implement the trail.

The bid schedule included bid alternate items that could be added to the project. The bid alternate items included construction of:

- Amenities at the Ranch Drive trail entry.
- A trail extension south of Ranch Drive with paving, irrigation and plantings.
- A thicker trail pavement section.
- Decorative boundary fencing at the Cottonwood Grove trail entry.

Staff recommends proceeding with the base scope project and adding Bid Alternate 1A, a trail extension south of Ranch Drive, which will extend the usable length of the trail and provide pathway landscaping. The price proposed for this item is deemed reasonable and is less than the Engineer's Estimate. The bid alternate trail entry amenities can be added later fairly easily, as can the boundary fencing. The bid alternate for thicker pavement section would be more durable, but the reduction in paving maintenance cost is not expected to offset the increased construction cost. GradeTech's bid contain an irregularity in that for certain unit price line items, the total for those items was not correctly calculated on the bid sheet. But from the amount listed as the total bid price, the bidder's intention for these unit price line items can be readily ascertained. Therefore, Staff, in consultation with the City Attorney's office, has determined that this irregularity constitutes a minor bid irregularity that the City Council may properly waive. Staff recommends that the City Council waive the minor bid irregularity and award the construction contract to GradeTech Inc. for construction of the base bid work plus Bid Alternate 1A.

In 2001, the City executed an agreement with the Santa Clara Valley Transportation Authority (VTA) to provide \$200,000 in grant funds for Project 4213, the Pedestrian-Bicycle Overcrossing Alignment Alternatives Study. The grant source was the 1996 Measure B Bicycle Program. The current phase of Project 4213 includes an analysis of overcrossing alternatives and completion of the state and federal environmental clearance process. Approximately \$40,000 of the Measure B funding has been expended. Staff anticipates that the work can be completed without use of the \$160,412 remaining balance of Measure B grant funds, assuming that no new significant issues arise in the environmental clearance process.

Coyote Creek Trail, Reach 1 needs additional funding to restore the original project budget balance and construct the recommend project features. VTA staff has agreed to transfer \$160,412 in Measure B funds from the Pedestrian-Bicycle Overcrossing project to Coyote Creek Trail Reach 1. Coyote Creek Trail is eligible to receive this type of grant monies. Staff supports this transfer, and recommends that the City Council authorize execution of a "1996 Measure B Bicycle Program Fund Transfer Agreement" with the VTA, with appropriation of these funds to Coyote Creek Trail, Reach 1.

Two other contributions should also be appropriated to this project. As part of the Veritas development on North McCarthy Boulevard, the City received a contribution of \$17,380 towards

Coyote Creek Trail. The Santa Clara Valley Water District has also negotiated a cost share agreement with the City, which provides a contribution of \$68,900 to fund some additional levee work requested by the District. This agreement was authorized by the City Council on November 2, 2004. Staff recommends appropriating both of these contributions to the project budget for Coyote Creek Trail, Reach 1. These actions will restore the project funding to its original level and allow implementation of the trail to proceed.

Recommendation:

1. Waive minor irregularities in the bidder's documentation and award a construction contract to GradeTech, Inc. in the amount of \$539,800 for construction of Coyote Creek Trail, Reach 1, Project 4206, including base bid work totaling \$448,800 plus Bid Add Alternate 1A totaling \$91,000.
2. Authorize execution of a fund transfer agreement with the Santa Clara Valley Transportation Authority for Coyote Creek Trail, Reach 1, Project 4206, subject to approval as to form by the City Attorney.
3. Appropriate \$160,412 in Measure B funds, \$17,380 in developer contributions, and \$68,900 in Santa Clara Valley Water District funding to the project budget.

*** 18. Authorize the City Manager to Execute the Agreement Amendment: Harris & Associates, Milpitas Library Off Site Utility Improvements, Project No. 8153, (Staff Contact: Steve Erickson, 586-3414)**

Background: On October 7, 2003, City Council awarded a consultant contract to Harris and Associates for mapping survey, and utility engineering services as part of the library pre-design effort for Winsor, Weller, and Main Street.

Staff now proposes to amend Harris's agreement to include additional utility and joint trench engineering design and coordination for the relocation and coordination of utility services needs for the new County Health Center and the new Senior Housing Project on North Main Street across from the library. The work is proposed on a time and materials basis with an amount not-to-exceed \$15,000. Funds are available in the project budget for this amendment.

Recommendation: Authorize the City Manager to execute the agreement amendment with Harris and Associates in the amount not to exceed \$15,000 subject to approval as to form by the City Attorney.

*** 19. Approve Amendment No. 3 to Valley Oil Company Contract (Staff Contact: Chris Schroeder, 586-3161)**

Background: On October 2, 2002 Valley Oil Company was awarded a (1) one-year contract with (2) one-year renewal options (total three years) to provide gasoline and diesel fuel to the City. When the first amendment was written on August 7, 2003 it was incorrectly referred to as "the second year of the three-year option" when in fact it was the first year of the two-year option. That same language error was then carried forward into Amendment No. 2 written on August 5, 2004.

Amendment No. 3 corrects the language errors of the first two amendments and increases the contract amount from \$280,000 to a maximum compensation amount of \$360,000, an increase of \$80,000 which in accordance with the contract reflects the increase in wholesale fuel prices paid by the contractor. The additional compensation is an estimate based on current usage and fuel price trends, but should be sufficient until June 30, 2005.

There are sufficient funds in the Public Works Department budget for fuel purchases.

Recommendation: Approve Amendment No. 3 to the Valley Oil Company contract subject to approval as to form by the City Attorney, and authorize an increase of \$80,000 to a maximum compensation amount of \$360,000.

XXII. CLAIMS AND DEMANDS

- * 20. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$7,218.14 to Canoga Perkins Corp. for the purchase of two (2) fiber optic Multiplexers and four (4) I/O cards directly from the manufacturer for the Information Services Department in accordance with Government Service Administration contract GS-35-F-0232J and quote No. JS1196. (Funds are available from the Information Services' operating budget for this purchase.)
2. \$137,888 to the Santa Clara County District Attorney's Crime Lab for analysis of physical evidence submitted by the City of Milpitas Police Department during calendar year 2004. The annual cost to operate the Major Case Unit of the Crime Laboratory during calendar year 2004, was \$1,675,380. The invoiced amount represents our share based upon the last five years average (9.34%) of cases submitted by the City of Milpitas Police Department. (Funds are available from the Police Department's operating budget for these services.)

Recommendation: Approve the purchase requests.

XXIV. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 15, 2005, AT 7:00 P.M.**